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Paper No. 36

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**OFFICE OF PETITIONS**

In re Application of :  
Gers-Barlag et al. :  
Application No. 08/987,468 : ON PETITION  
Filed: 10 December, 1997 :  
Attorney Docket No. BEIERSDORF :

This is a decision on the petition under 37 CFR 1.137(b),<sup>1</sup> filed on 29 December, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 9 July, 2003, for failure to timely respond to the non-final Office action mailed on 8 April, 2003, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 28 October, 2003.

Although the petition states that the petition fee is enclosed, no check or authorization to charge the petition fee was located among the papers filed with the petition on 29 December, 2003. The petition fee of \$1,330.00, however, will be charged to counsel's deposit account, No. 14-1263, as authorized in the extension of time request filed on 16 September, 2002.

The application is being forwarded to Technology Center 1600 for consideration of the amendment filed with the present petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



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